

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

ANTHONY MEDINA,

Plaintiff,

vs

9:05-CV-1460

J. HUNT; W. SPRAGUE; JOHN MICHAEL; and
RAYMOND BOYEA, Each Correction Officer,
Great Meadow Correctional Facility,

Defendants.

APPEARANCES:

ANTHONY MEDINA
99-A-2999
Southport Correctional facility
P.O. Box 2000
Pine City, NY 14871

HON. ANDREW M. CUOMO
Attorney General of the
State of New York
Attorney for Defendants
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The Capitol
Albany, New York 12224

DAVID N. HURD
United States District Judge

OF COUNSEL:

CHRISTOPHER W. HALL, ESQ.
Asst. Attorney General

DECISION and ORDER

Plaintiff, Anthony Medina, brought this civil rights action pursuant to 42 U.S.C. § 1983. By Report-Recommendation dated September 2, 2008, the Honorable George H. Lowe, United States Magistrate Judge, recommended that the defendants' motion for partial summary judgment (Docket No. 28) be granted, and denied in part in the following respects: that plaintiff's retaliation claim under the First Amendment be dismissed; that plaintiff's

conspiracy claim against defendant Hunt be dismissed, but that defendants' motion otherwise be denied without prejudice; and further, that plaintiff's claims against defendants in their official capacities be *sua sponte* dismissed. Objections to the Report-Recommendation have not been filed.

Based upon a careful review of the entire file and the recommendations of Magistrate Judge Lowe, the Report-Recommendation is accepted and adopted in all respects. See 28 U.S.C. 636(b)(1).

Accordingly, it is

ORDERED that

1. Defendants' motion for partial summary judgment (Docket No. 54) is GRANTED in part, and DENIED in part as follows:
2. Plaintiff's retaliation claim under the First Amendment is DISMISSED;
3. Plaintiff's conspiracy claim against defendant J. Hunt is DISMISSED;
4. Defendants' motion is otherwise DENIED; and
5. Plaintiff's claims against defendants in their official capacities are sua sponte DISMISSED.

IT IS SO ORDERED.



United States District Judge

Dated: September 24, 2008
Utica, New York.